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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/972,565	10/05/2001	Marc E. Enright JR.	A34572	5365

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BAKER & BOTTS
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NEW YORK, NY 10112

EXAMINER

MEREK, JOSEPH C

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 08/13/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/972,565

Applicant(s)

ENRIGHT, MARC E.

Examiner

Joseph C. Merek

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 June 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-5 and 7-9 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. It has not been adequately disclosed how the supports allow for movement in both directions and support the tank in the vertical direction. The claims do not require that the supports are in any particular location on the tank. The supports on the sides of the tank will not provide vertical support. Claim 8 brings out the requirement that the supports are on the sidewalls allow for vertical and horizontal movement. It is not clear how these supports will provide vertical load support due to the sliding motion allowed in the vertical direction. Since the supports allow for vertical sliding or movement, the supports cannot carry any vertical load.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 and 7-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Becker et al (US 3,937,353). Regarding claims 1-9, see Figs. 4 and 5, where the support structure is shown. The term semi-membrane does not require any structure that is not in the reference. The preamble of claim 1 specifies a support for a tank. However, the claim requires the combination of the support and the tank since in lines 8 and 9, it is set forth that "a first component affixed to a tank wall". The upper supports allow for movement in both directions. The lower supports allow for movement in the horizontal direction only. There is a plurality of each along the upper and lower wall. As it is best understood, the vertical support is not required since the supports that allow for movement in two directions will provide vertical support. Regarding claim 3, 119 is a thermally insulating and load bearing material.

Claims 1-5, 7, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Cavanna et al (US 4,156,492). Regarding claim 1, see Figs. 2, 4-6, and 7 and the discussion in Col. 4, lines 32-50 and Col. 5, lines 14-48. The supports provide vertical load support. The groove in the intermediate member is the aperture or slot that accepts 56 and allows for movement radially as well as lateral which is orthogonal to the radial movement. Regarding claim 2, the stiffeners are 14 and 80 as seen in Fig. 4. Regarding claim 3, see Fig. 4, 66 is load bearing and thermally insulating material since it is fiber reinforced plastic as seen in Col. 4, lines 54-57. Regarding claim 4, 62 is the bracket. See Figs. 5 and 6 where the shims can slide in the brackets 62. Regarding claim 5, bracket 62 substantially encloses 66. Regarding claim 7, see Fig. 2, side brackets are attached to a tank wall that extends horizontally and the movement of the

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supports is in two horizontal directions, radially inward and axially along the tank.

Regarding claim 8, the structure of Figs. 5 and 6 will allow for movement vertically and axially.

Claims 1-5, 8, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Alleaume (US 3,853,240). Regarding claim 1, see Figs. 1-4. The supports allow for movement between in two directions. The vertical support is not required on the sidewall supports. Regarding claim 2, see Fig. 1 where structure holding the tank (102) has a plurality of stiffeners. Regarding claim 3, Regarding claim 4, see Fig. 4. Regarding claim 5, 114 substantially encloses 118 and allows for sliding motion. Regarding claim 8, the tank wall is vertical plane and the supports allow for motion is horizontal and vertical directions. Regarding claim 9, see Fig. 1

Response to Arguments

Applicant's arguments filed 6/03/03 have been fully considered but they are not persuasive. Applicant Becker does not provide vertical load support. The claims do not require where the supports are located on the tank. The supports of the instant invention that are on the sidewalls of the tank will not provide vertical support. Therefore the structure is not required.

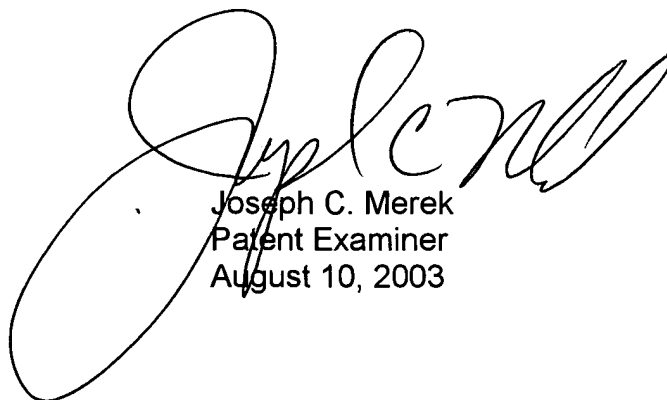
Applicant's arguments with respect to claims 1-5 and 7-9 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph C. Merek whose telephone number is (703) 305-0644. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young can be reached on (703) 308-2572. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3579 for regular communications and (703) 308-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.



Joseph C. Merek
Patent Examiner
August 10, 2003